

Franklin County judge tosses feedlot lawsuit

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Speculation that a new feedlot near Eltopia could dry up neighboring farmers' wells didn't convince a Franklin County judge on Friday to overrule the state attorney general and set limits on how much water can go to the feedlot's livestock.

Superior Court Judge Carrie Runge dismissed a lawsuit against [Easterday Ranches Inc.](#), saying the statute is "clear and unambiguous" that the longtime cattle company does not need a state water permit and cannot be regulated on the amount of water it will use for its anticipated 30,000 additional cows.

"If the Legislature had intended limiting stock-watering to gallons or acres, it would have done that," Runge said.

The suit also named the state of Washington and the state Ecology Department.

The region's first new feedlot is a \$10.5 million project on 100 acres of Easterday's 960-acre property in rural Franklin County.

Easterday -- one of the Northwest's largest feedlot operators -- is using a state law passed in 1945 that says the company is exempt from getting a permit if it is tapping into ground water for stock-water purposes.

The statute says that water use must be held to 5,000 gallons per day. But a 2005 opinion from Attorney General Rob McKenna says the state cannot limit the amounts of water ranchers and feedlots draw daily for livestock. The water is used for drinking, feeding and cleaning the cattle and their stalls.

Easterday has proposed withdrawing at least 300,000 gallons of water a day.

William Cameron of Seattle, a lawyer for Easterday Ranches, said his client's feedlot is "going to be a huge operation" and will be "immensely valuable to the citizens of Franklin County."

Cameron pointed out to the judge that "it just doesn't rain very much there" near Eltopia and said the well "is not going to affect anything," including salmon, because the water will come from about 600 feet below sea level.

"We're not talking about a tremendous amount of water. We're not talking about an environmental disaster ... at our doorstep," Cameron argued. "There is simply no reason to regulate this kind of withdrawal. What the Legislature wrote ... it all made sense, and now Easterday is the victim. They have done everything right and by the book, and it should stand as is."

The lawsuit was filed by conservation group [Earthjustice](#) on behalf of Five Corners Family Farmers, a group of property owners who banded together to oppose the nearby feedlot. Many of them live on dryland wheat farms, draw water for domestic use and are concerned Easterday's feedlot will threaten their ground water supply and lifestyle.

The third- and fourth-generation farmers were joined in their lawsuit by the Center for Environmental Law and Policy and the Sierra Club.

Janette Brimmer, the Earthjustice lawyer, said the only real issue before the court Friday was for Runge to decide if Easterday is exempt from needing a permit when using water in excess of the 5,000 gallons-a-day limit.

After listening to six attorneys representing different interests in the case, Runge admitted that "at first blush" she thought the matter would not be interesting but realized she was wrong and found the "arguments were enlightening."

In November when the issue first went before the court, Runge denied Cody Easterday's motion to dismiss the lawsuit against his operation, then saying she felt the plaintiffs had standing. Her opinion changed Friday.

"I question what sort of injury the plaintiffs in this case are claiming," Runge said. She said farmers' fears that the commercial feedlot would dry up their domestic wells were only "speculative or potential."

About 30 people were in court for the 1 1/2-hour hearing.

Read more: <http://www.tri-cityherald.com/2010/04/03/962484/franklin-county-judge-tosses-feedlot.html#ixzz0kFaWdG7Q>